

CHAPTER ~~61~~. COMPLIANCE AUDITS

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~~61.1. Lotteries.~~

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~~61.2. Scope of compliance audits.~~

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~~61.3. Audit procedures.~~

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~~61.4. Audit report.~~

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~~61.5. Confidentiality.~~

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~~61.6. Duty of the Department to contract for an audit.~~

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Deleted: (c) No lobbyist or principal will be subject to a random audit more than once in any 12-month period.

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Deleted: (a) The purpose of conducting the audits shall be to ensure compliance with the act.

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Cross References

This chapter cited in 51 Pa. Code § ~~55.2~~ (relating to records maintenance, retention and availability); 51 Pa. Code § ~~63.3~~ (relating to late or deficient filings—Department proceedings under section 1304-~~A~~ or 1305-~~A~~ of the act).

§ ~~61.1. Lotteries.~~

(a) Each year, the ~~Department~~ will ~~randomly select, at a public drawing 60 days following the close of each fourth quarter reporting period, three percent of all completed~~ registration statements and ~~expense~~ reports ~~filed with the Department,~~ under the act.¹

(b) ~~No lobbyist, lobbying firm or principal will be selected for a random audit more than once in consecutive audit periods.~~²

§ ~~61.2. Scope of compliance audits.~~

(a) ~~The audits will be conducted in accordance with generally accepted auditing standards and will test as to whether each registration statement or expense report is~~

¹ This language essentially tracks subsection 1308(f)(2) of the act.

² This language follows the provision of former section 41.1(c) of the regulations promulgated under Act 1998-93, except that it had provided for a 12 month period as noted in deleted subsection 41.1(c) above. Section 1308(g) of Act 93 had provided in relevant part: "The commission shall initiate, by lottery, random annual audits of the registration statements and disclosure reports in sufficient number to ensure compliance with this chapter."

materially correct.³

(b) An audit shall be limited in time to the previous two calendar years, except that lobbying activities performed prior to January 1, 2007 will not be audited under the act.

§ 61.3. Audit procedures.

The following general procedures will be employed by the Department for audits conducted under section 1308-A(f) of the act (relating to audits):

(a) At least 30 days prior to the initiation of the audit, each audit subject will be advised by letter that it was randomly selected for audit and further advised of the time, date, place and general scope as well as a tentative time frame for completion of the audit. The letter will contain a request for documents deemed necessary for conduct of the audit.

(b) Prior to the initiation of the audit, a review of the subject's reports on file with the Department for a period not to exceed two years will be conducted, except that lobbying activities performed prior to January 1, 2007 will not be audited under the act.

(c) The audit will be initiated by way of conference with the audit subject or the designated representative thereof.

(1) The audit may include related records from other sources, in which case the subject of the audit shall cooperate fully and shall execute all waivers, releases or authorizations to allow the independent auditor to obtain the records.

(2) Registrants shall have an affirmative duty to cooperate fully in any audit of their registration statements or expense reports. If the independent auditor believes that the subject of the audit is delaying the submission of requested records, then it shall inform the Department in writing.

(d) The audit may include interviews of lobbyists, principals, representatives and employees thereof and other individuals necessary to the completion of the audit.

(e) The independent auditor will offer to conduct an audit exit conference with the subject of the audit, or the designated representative thereof, prior to the issuance of a final report.

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Deleted: (i) The audit will include a detailed field examination of the financial records of the audit subject relating to lobbying activities. ¶

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³ This regulation essentially tracks subsection 1308(f)(3) of the act.

§ 61.4. Audit report.

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(a) The certified public accountants or certified public accounting firms, selected pursuant to section 1308-A(f)(1) (relating to audits) and subsection 61.6 (relating to Duty of the Department to contract for an audit), that are responsible for performing compliance audits will, at the conclusion of each audit, prepare an audit report which will include findings.

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(b) An audit report may include recommendations as to recordkeeping, reporting and other related practices arising from the audit.

(c) Upon completion, the independent auditor will send a copy of the audit report and the findings of fact by certified mail to the subject of the audit. The independent auditor shall issue the audit report within one year of being notified of the subject of the audit.

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(1) Issuance of the audit report will be deemed complete upon mailing to the subject of the audit.

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(2) Within 30 days of issuance of the audit report, the subject of the audit may file with the Department a statement setting forth the subject's position as to the audit report.

(d) Audit reports and any related responses shall be submitted to the Department for review, and may form the basis for further proceedings or referrals under the act or the Ethics Act.

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§ 61.5. Confidentiality.

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The audit report and findings shall be confidential except that the Department will make an audit report and findings available to the Commission if the Commission is investigating an alleged violation of this chapter involving the audited registration or expense report within the requirements of the act and chapters 53 and 55 of these regulations.⁴ The Commission shall include the relevant portion of an audit as part of its findings of fact in a Commission order that results from an investigation arising out of an audit.⁵

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§ 61.6. Duty of the Department to contract for an audit.

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⁴ On May 3, the Committee asked the Department to provide a cross reference to Chapter 55, as well as add the following sentence to Section 63.3, which appears at subsection(c): "If the Department makes a referral to the Commission based on an audit, the Commission will handle the referral through the investigative process."

⁵ This language tracks subsection 1308-A(f)(4) of Act 2006-134. Section 1308(g) of Act 1998-93 had provided in relevant part: "The audit report and findings shall be confidential; however, the commission shall include the relevant portion of an audit as part of its findings of fact in a commission order which results from an investigation arising out of an audit."

Every two years, the Department will contract for the services of one or more certified public accountants or certified public accounting firms. The contract will be awarded in a manner consistent with the provisions of 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code), and no certified public accountant or certified public accounting firm shall be eligible to obtain a contract for two successive contract periods.⁶

⁶ This language tracks subsection 1308-A(f)(1) of the act. On May 3, the Committee discussed whether to include language on timelines in this section.